

# House File 425 - Introduced

HOUSE FILE \_\_\_\_\_  
BY UPMEYER

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act relating to grandparent and great=grandparent visitation.  
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
3 TLSB 2148YH 83  
4 pf/nh/14

PAG LIN

1 1 Section 1. Section 600.11, subsection 2, paragraph e, Code  
1 2 2009, is amended to read as follows:  
1 3 e. A person who has been granted or who has previously  
1 4 petitioned for visitation rights with the child to be adopted  
1 5 pursuant to section 600C.1.  
1 6 Sec. 2. Section 600A.5, subsection 3, paragraph b, Code  
1 7 2009, is amended by adding the following new subparagraph:  
1 8 NEW SUBPARAGRAPH. (7) Living grandparents or  
1 9 great=grandparents of the child under the following  
1 10 circumstances:  
1 11 (a) The parents of the child are married.  
1 12 (b) The parents of the child are unmarried and the  
1 13 grandparent or great=grandparent is the parent or  
1 14 great=grandparent of the mother, or the grandparent or  
1 15 great=grandparent is the parent or great=grandparent of the  
1 16 father and the father's paternity of the child has been  
1 17 legally established.  
1 18 Sec. 3. Section 600C.1, Code 2009, is amended by striking  
1 19 the section and inserting in lieu thereof the following:  
1 20 600C.1 GRANDPARENT AND GREAT=GRANDPARENT VISITATION.  
1 21 1. The grandparent or great=grandparent of a minor child  
1 22 may petition the court for grandchild or great=grandchild  
1 23 visitation under any of the following circumstances:  
1 24 a. During the pendency of or after a decree or final order  
1 25 is issued in a dissolution, legal separation, child support,  
1 26 or annulment proceeding of the parent of the child if the  
1 27 proceeding involves the child. The remarriage of a parent  
1 28 does not affect the authority of a court to grant visitation  
1 29 to any grandparent or great=grandparent under this section.  
1 30 b. If either parent of the child is deceased,  
1 31 notwithstanding the remarriage of the surviving parent of the  
1 32 child or the adoption of the child by the spouse of the  
1 33 surviving parent of the child.  
1 34 c. If the parents of the child are unmarried and the  
1 35 grandparent or great=grandparent is the parent or grandparent  
2 1 of the mother, or if the grandparent or great=grandparent is  
2 2 the parent or grandparent of the father and the father's  
2 3 paternity of the child has been legally established.  
2 4 d. During the pendency of a termination of parental rights  
2 5 proceeding involving the child and prior to the issuance of an  
2 6 order granting the petition for termination of parental  
2 7 rights.  
2 8 e. During the pendency of an adoption proceeding involving  
2 9 the child and prior to the issuance of a final adoption  
2 10 decree.  
2 11 2. The court may grant visitation to the grandparent or  
2 12 great=grandparent if the court finds that the grandparent or  
2 13 great=grandparent has an interest in the welfare of the child  
2 14 and that granting of visitation is in the best interest of the  
2 15 child based upon all of the following considerations as  
2 16 applicable to the circumstances specified in subsection 1:  
2 17 a. The prior interaction and interrelationship of the  
2 18 child with the child's parents, siblings, and other persons  
2 19 related by consanguinity or affinity, and with the grandparent  
2 20 or great=grandparent.  
2 21 b. The geographical location of the residence of each

parent or prospective adoption petitioner and the distance between those residences, and the geographical location of the grandparent's or great-grandparent's residence and the distance between the grandparent's or great-grandparent's residence and the child's residence.

c. The child's and parents' or prospective adoption petitioner's available time, including but not limited to each parent's or prospective adoption petitioner's employment schedule, the child's school schedule, and the child's and the parents' or prospective adoption petitioner's holiday and vacation schedule.

d. The age of the child.

e. The child's adjustment to home, school, and community.

f. If the court has interviewed the child regarding the wishes and concerns of the child as to visitation by the grandparent or great-grandparent, the wishes and concerns of the child, as expressed to the court.

g. The health and safety of the child.

h. The amount of time that will be available for the child to spend with siblings.

i. The mental and physical health of all parties.

j. Each parent's or prospective adoption petitioner's willingness to miss or reschedule parenting time or visitation to provide visitation with the grandparent or great-grandparent.

k. Whether the grandparent or great-grandparent previously has been convicted of or pleaded guilty to any criminal offense involving any act that resulted in a child being an abused child or a neglected child; whether the grandparent or great-grandparent, in a case in which a child has been adjudicated an abused child or a neglected child, previously has been determined to be the perpetrator of the abusive or neglectful act that is the basis of the adjudication; whether either parent or a prospective adoption petitioner previously has been convicted of or pleaded guilty to a crime involving domestic abuse involving a victim who at the time of the commission of the offense was a member of the family or household that is the subject of the current proceeding; whether either parent or a prospective adoption petitioner previously has been convicted of an offense involving a victim who at the time of the commission of the offense was a member of the family or household that is the subject of the current proceeding and caused physical harm to the victim in the commission of the offense; and whether there is reason to believe that the grandparent or great-grandparent has acted in a manner resulting in a child being an abused child or a neglected child.

l. Whether the custodial parent or a parent subject to a shared parenting decree or order has continuously and willfully denied the other parent's right to parenting time in accordance with an order of the court.

m. Whether either parent or the adoption petitioner has established a residence or is planning to establish a residence outside the state.

n. The wishes and concerns of the child's parents or the adoption petitioner, as expressed by them to the court.

o. Any other factor in the best interest of the child.

3. For the purposes of this section, "court" means the district court or the juvenile court if that court currently has jurisdiction over the child in a pending action. If an action is not pending, the district court has jurisdiction.

4. Notwithstanding any provision of this chapter to the contrary, venue for any action to establish, enforce, or modify visitation under this section shall be in the county where either parent resides if no final custody order determination relating to the grandchild or great-grandchild has been entered by any other court. If a final custody order has been entered by any other court, venue shall be located exclusively in the county where the most recent final custody order was entered. If any other custodial proceeding is pending when an action to establish, enforce, or modify visitation under this section is filed, venue shall be located exclusively in the county where the pending custodial proceeding was filed. If the action is brought during the pendency of a termination of parental rights proceeding, venue shall be as provided in section 600A.5. If the action is brought during the pendency of an adoption proceeding, venue shall be as provided in section 600.3.

5. Notice of any proceeding to establish, enforce, or modify visitation under this section shall be personally served upon all parents of a child or a prospective adoption

4 33 petitioner whose interests are affected by a proceeding  
4 34 brought pursuant to this section and all grandparents or  
4 35 great-grandparents who have previously obtained a final order  
5 1 or commenced a proceeding under this section.  
5 2 6. The court shall not enter any temporary order to  
5 3 establish, enforce, or modify visitation under this section.  
5 4 7. An action brought under this section is subject to  
5 5 chapter 598B, and in an action brought to establish, enforce,  
5 6 or modify visitation under this section, each party shall  
5 7 submit in its first pleading or in an attached affidavit all  
5 8 information required by section 598B.209.  
5 9 8. In any action brought to establish, enforce, or modify  
5 10 visitation under this section, the court may award attorney  
5 11 fees to the prevailing party in an amount deemed reasonable by  
5 12 the court.  
5 13 9. If a proceeding to establish or enforce visitation  
5 14 under this section is commenced when a dissolution of marriage  
5 15 proceeding is pending concerning the parents of the affected  
5 16 minor child, the record and evidence of the dissolution action  
5 17 shall remain impounded pursuant to section 598.26. The  
5 18 impounded information shall not be released or otherwise made  
5 19 available to any person who is not the petitioner or  
5 20 respondent or an attorney of record in the dissolution of  
5 21 marriage proceeding. Access to the impounded information by  
5 22 the attorney of record for the grandparent or  
5 23 great-grandparent shall be limited to only that information  
5 24 relevant to the grandparent's or great-grandparent's request  
5 25 for visitation.

#### 5 26 EXPLANATION

5 27 This bill amends the grandparent visitation law (Code  
5 28 chapter 600C). Current law allows a grandparent or  
5 29 great-grandparent to petition for visitation of a minor child.  
5 30 The court must consider a fit parent's objections to granting  
5 31 visitation, and a rebuttable presumption arises that a fit  
5 32 parent's decision to deny visitation to a grandparent or  
5 33 great-grandparent is in the best interest of a minor child.  
5 34 The court may grant visitation to the grandparent or  
5 35 great-grandparent if the court finds all of the following by  
6 1 clear and convincing evidence: the grandparent or  
6 2 great-grandparent has established a substantial relationship  
6 3 with the child prior to the filing of the petition; the parent  
6 4 who is being asked to temporarily relinquish care, custody,  
6 5 and control of the child to provide visitation is unfit to  
6 6 make the decision regarding visitation; and it is in the best  
6 7 interest of the child to grant such visitation.

6 8 The bill strikes the current provisions and instead  
6 9 provides that the grandparent or great-grandparent of a minor  
6 10 child may petition the court for visitation of a minor child  
6 11 only under specified circumstances: during the pendency of or  
6 12 after a decree or final order is issued in a dissolution,  
6 13 legal separation, child support, or annulment proceeding of  
6 14 the parent of a child if the proceeding involves the child; if  
6 15 either parent of the child is deceased; if the parents of the  
6 16 child are unmarried and, in the case of the grandparent or  
6 17 great-grandparent who is the parent or grandparent of the  
6 18 father, the father's paternity of the child has been legally  
6 19 established; during the pendency of a termination of parental  
6 20 rights proceeding; or during the pendency of an adoption  
6 21 proceeding.

6 22 The bill provides that the court may grant visitation to  
6 23 the grandparent or great-grandparent if the court finds that  
6 24 the grandparent or great-grandparent has an interest in the  
6 25 welfare of the child and that granting of visitation is in the  
6 26 best interest of the child. The court is to make this  
6 27 determination based upon a listing of considerations  
6 28 including, as applicable to the circumstances: the prior  
6 29 interaction and interrelationship of the child with the  
6 30 child's parents, siblings, and other persons related by  
6 31 consanguinity or affinity, and with the grandparent or  
6 32 great-grandparent; the geographical location of the residences  
6 33 of each of the parties and the distance between the  
6 34 residences; the child's and parents' or prospective adoptive  
6 35 parent's available time; the age of the child; the child's  
7 1 adjustment to home, school, and community; if the court has  
7 2 interviewed the child, the wishes and concerns of the child;  
7 3 the health and safety of the child; the amount of time that  
7 4 will be available for the child to spend with siblings; the  
7 5 mental and physical health of all parties; each parent's or  
7 6 prospective adoptive parent's willingness to miss or  
7 7 reschedule parenting time or visitation to provide visitation  
7 8 with the grandparent or great-grandparent; any of the party's

7 9 previous convictions of certain crimes or involvement in the  
7 10 abuse or neglect of a child; whether the custodial parent or a  
7 11 parent subject to a shared parenting decree or order has  
7 12 continuously and willfully denied the other parent's right to  
7 13 parenting time in accordance with an order of the court;  
7 14 whether either parent or a prospective adoptive parent has  
7 15 established a residence or is planning to establish a  
7 16 residence outside the state; the wishes and concerns of the  
7 17 child's parents or prospective adoptive parent, as expressed  
7 18 by them to the court; and any other factor in the best  
7 19 interest of the child.

7 20 The bill also provides procedural and jurisdictional  
7 21 provisions that exist under the current law.

7 22 LSB 2148YH 83

7 23 pf/nh/14.1